IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1200 of 2007()

SC.504/2005 of ADDL.SESSIONS COURT (FAST TRACK-II, PATHANAMTHITTA)

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PETITIONERS/ACCUSED NO.1 AND 2 IN SC NO.504/2005:

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1. JOSEPH VARGHESE, AGED 50 YEARS
S/O.VARGHESE, MALAVANA HOUSE,
KOTTAMURI.P.O. CHENGANACHERY
KOTTAYAM TALUK.

2. KUNJUMON @ SADANANDHAN, AGED 50 YEARS,
MOUNGAKKAVUMKAL HOUSE, MULAKAL,
EZHUMATTOUR.P.O.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.AJITH MURALI

RESPONDENT:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM .

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1200 of 2007

Dated this the 13th day of April 2007

O R D E R

The petitioners face indictment in a prosecution under Section 8 of the Kerala Abkari Act. The case was posted to 13/02/2007 for framing charge. On that day, both petitioners could not appear before the learned Sessions Judge. The marriage of the daughter of one of the accused was solemnised on that day. The other accused/petitioner was laid up. Applications were filed before the learned Sessions Judge to apprise the learned Sessions Judge of these facts. But unfortunately, the learned Sessions Judge dismissed the application and issued a non-bailable warrant to procure the presence of the petitioners. The petitioners have, in these circumstances, come to this court complaining about the issue of non-bailable warrant against them. They are prepared to appear before the learned Sessions Judge. But they apprehend that their application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Sessions

Judge. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Sessions Judge to release the petitioners on bail when they appear and apply for bail.

2. I am satisfied, in the facts and circumstances of this case that directions deserve to be issued under Section 482 Cr.P.C. It is, of course, for the petitioners to appear before the learned Sessions Judge and explain to the learned Sessions Judge, the circumstances under which they could not earlier appear before the learned Sessions Judge. I find absolutely no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Judge and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the

case, the learned Judge must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. It is further directed that the non-bailable warrant issued against the petitioners shall not be executed till 30/04/2007 before which date, the petitioners shall appear before the learned Judge to seek regular bail.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007